IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.6.2006

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
and
THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

A.S.No.174 of 2006
and C.M.P.No.6647 of 2006

....

The Special Deputy Collector
(Land Acquisition),
Chennai Metropolitan Development
Authority,Egmore, Chennai-8. .. Appellant

vs.

1.R.Durai
2.R.Murugesan
3.R.Kumar
4.R.Amudha
5.R.Shanthi
6.P.Jayalakshmi
7.S.Gopalakrishnan
8.S.Natarajan
9.S.Sumathi
10.Dhanapal .. Respondents

Appeal filed under Section 54 of the L.A Act against the judgment and decree dated 25.4.2005 made in L.A.O.P.No.4 of 2004 on the file of VI Asst. Judge, City Civil Court, Chennai.

For appellant : Mr.V.Ravi, Spl. Government Pleader

For respondents: Mr.K.M.Venugopal

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JUDGMENT

(Delivered by P.D.DINAKARAN,J.)

The referring officer is the appellant herein.

2.1. The Government of Tamil Nadu acquired large extent of lands situate in Velachery, Chennai including an extent of 0.28.75

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Cents (12523.5 sq.ft.) of land comprised in Survey Nos.409/9 and 409/11 belonging to the claimants/ respondents herein. The Land Acquisition Officer fixed the value of the land at Rs.76/- per sq.ft. and the referring officer passed award No.1/2003 fixing the compensation at Rs.17,16,225/-. The claimants filed an objection stating that the land would fetch Rs.24 lakhs per ground and requested to make a reference.

2.2. Accordingly, the matter was referred under section 18 of the Land Acquisition Act, 1894 which was taken on file as L.A.O.P.No.4 of 2004 on the file of City Civil Court, Chennai. Learned Assistant Judge, City Civil Court, Chennai, on the basis of evidence let in by both the parties, enhanced the market value of the land at Rs.484/- per sq.ft. besides fixing the value of the superstructure in the land at Rs.81,185/- and awarding solatium at 30% and additional market value at 12% p.a from 25.5.2000 to 28.5.2003 on the enhanced market value of the land the value of the superstructure. Aggrieved by the judgment and decree of the learned Assistant Judge, the referring officer has preferred this appeal.

3. The core contention of learned Additional Government Pleader is that the market value enhanced from Rs.76/- per sq. ft. to Rs.484/- per sq. ft. is exorbitant. According to him, the learned Assistant Judge has not taken into consideration the data land relied upon by the Land Acquisition Officer.

4. Mr.K.M.Venugopal, learned counsel appearing for the respondents/claimants, on the other hand, submitted that the learned Assistant Judge, on the basis of evidence on record, has come to the correct conclusion and fixed the market value at Rs.484/- per sq. ft. which cannot be said to be excessive or exorbitant.

5. We have given our careful consideration to the submissions made by counsel for both the sides. Admittedly, the land was acquired for the purpose of widening Velachery Bye-pass Road. The claimants had not disputed the acquisition proceedings, but questioned the quantum of compensation fixed by the Land Acquisition Officer which resulted in the reference under section 18 of the Land Acquisition Act.

6. Before the learned Assistant Judge, the Land Acquisition Officer relied upon Ex.R-3 sale deed in support of fixing the market value at Rs.76/- per sq. ft. whereas the claimants produced sale deeds, Exs.C-1 to C-8 and contended that the land would fetch Rs.2000/- per sq. ft. The learned Assistant Judge has taken into consideration Exs.C1 to C5 and found that the land sold under Ex.C5 is situate abutting the road and hence, the value of land mentioned in Ex.C5 would reflect the actual cost of the lands acquired.

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7. Further, Ex.C-5 sale deed is dated 19.3.1997 and notification under section 4(1) of the Land Acquisition Act in the instant case was issued on 25.5.2000. The learned Assistant Judge added the appreciation at the rate of 10% for every subsequent year after the base year in the light of the decision of Supreme Court in Special Land Acquisition Officer, B.T.D.A.Begallcot vs. Mohd.Hanif Sahib Bawa Sahib (2002(3) SCC 688) and fixed the market value at Rs.484/- per sq.ft. in respect of the lands acquired. Further, the learned Assistant Judge has also noticed Ex.C-4 under which land was sold at Rs.489/- per sq. ft. in the year 1999.

8. Though learned Additional Government Pleader submitted that the data land in Ex.R-3 has not been considered by the learned Assistant Judge, the learned Assistant Judge has recorded a finding that the data land in survey No.651 is situate about 9 survey numbers away from the road and the land abutting main road would normally fetch more price than the land far away from the road and hence, the sale deed Ex.R-3 would not reflect the actual market value of the lands acquired.

9. The question whether the claimants are entitled to get interest on the additional amount awarded for superstructure as well as on the 30% solatium can conveniently be held correct, as the person entitled to the compensation awarded is also entitled to get interest on the aggregate amount including the solatium awarded for the superstructure, as otherwise the factors to be taken into consideration mentioned under Section 23(1) of the Land Acquisition, which are referred to hereunder would become redundant:-

> "Section 23. Matters to be considered in determining compensation: (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration-
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> ...
>
> - fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;
>
> - fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested in compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

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- sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6 and the time of the Collector's taking possession of the land."

10. We are, therefore, of the view that the learned Assistant Judge, on the basis of evidence on record, has come to the correct conclusion and enhanced the market value to Rs.484/- per sq. ft. which cannot be said to be excessive or exorbitant. In this view of the matter, the appeal is liable to be dismissed and accordingly, it is dismissed. No costs. Connected C.M.P. is closed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The VI Assistant Judge,
City Civil Court, Chennai.

2. The Registrar,
City Civil Court, Chennai.

3. The Record Keeper,
VR Section,
High Court, Madras
1 cc to the Government Pleader, SR.25507
1 cc to Mr.K.M.Venugopal, Advocate, SR.25379

jrg (co)

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